

# ARTICLE XIV ENFORCEMENT

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**Section 1. ZONING INSPECTOR**

1. It shall be the duty of the Zoning Inspector, who shall be appointed by the Board of Trustees, to enforce this Resolution. It shall also be the duty of all officials and employees of the Township to assist the Zoning Inspector by reporting locations of new construction, reconstruction, changes of land use, or other potential violations of this Resolution.
2. Appeal from the decision of the Zoning Inspector may be made to the Board of Appeals, as provided in Article XVI, Section 1.1 (Appeals).

**Section 2. RECORD KEEPING**

1. A record of all zoning certificates shall be kept on file in the Office of the Township Trustees or their agent, and certified copies shall be furnished on request to any person having proprietary or tenancy interest in the building or land affected.
2. On a monthly basis, the Zoning Inspector shall provide the Board of Township Trustees with a written report which lists all permits issued over the period including the type of permit, the location of the building or use, the type of district, and the owner and occupant of the building. Upon discovery of a permit issued not in conformance with the provisions of this Resolution, the Board of Township Trustees may rescind the permit as long as the applicant's financial position in the land use or building has not materially changed in reliance on the permit.

**Section 3. ZONING CERTIFICATE**

1. It shall be unlawful for an owner to use or to permit the use of any structure, building or land, or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, until a zoning certificate shall have been issued by the Zoning Inspector. It shall be the duty of the Zoning Inspector to issue a certificate, provided he is satisfied that the structure, building or premises and the proposed use thereof conform with all the requirements of this Resolution. No permit for excavation or construction shall be issued by the Zoning Inspector unless the plans, specifications and the intended use conform to the provisions of this Resolution.
2. Under written request from the owner or tenant the Zoning Inspector shall issue a zoning certificate for any building or premises existing at the time of enactment of this Resolution certifying, after inspection, the extent and kind of use made of the building or premises and whether such use conforms to the provisions of this Resolution.

**Section 4. CONDITIONS UNDER WHICH CERTIFICATES ARE REQUIRED**

A zoning certificate shall be required for any of the following, except as provided otherwise in this Resolution:

1. Construction or alteration of any building or structure, including accessory buildings.
2. Construction of a driveway or a sidewalk.
3. Change in use of an existing building, structure or accessory building to a use of a different classification.
4. Occupancy and use of vacant land.
5. Change in the use of land to a use of a different classification.
6. Any change in the use of a nonconforming use.

**Section 5. APPLICATION AND ISSUANCE OF ZONING CERTIFICATES**

1. A written application for a zoning certificate and payment of the proper fee shall be made at the same time as the application for a building permit. The application must contain a detailed description of the use of the building or alteration. The Zoning Inspector shall review the application for completeness and determine whether Site Plan Review pursuant to Section 5.3.B., Conditional Use Review pursuant to Article XVI, Section 1.3, or other appropriate action or recommendations by other agencies and organizations that are required or deemed necessary to satisfy the requirements of the Resolution. A file of such applications and plans shall be kept in the office of the Zoning Inspector.
2. If the Zoning Inspector is authorized to make a determination on the application without additional review, a certificate shall be issued, provided such construction, alteration, or proposed use is in conformity with the provisions of this Resolution. A certificate for construction of a new building or for the alteration of an existing building shall be issued within ten (10) days after a written request. A certificate for the use of vacant land, or for a change in the use of land or of a building, or for a change in a nonconforming use shall be issued within fifteen (15) days after a written request.
3. Each application for a zoning certificate shall provide a plot plan or a site plan which complies with the following requirements:
  - A. Plot Plan Review.
 

All applications not requiring site plan review shall provide two reproducible copies of a plot plan containing the following information:

    1. The name of the property owner and/or authorized agents (if any), the name of the development (if any), and the lot numbers of the concerned and abutting properties.
    2. The actual dimensions of the lot, the yard and other open space dimensions thereof, and the location and size of any existing structure thereon.
    3. The location, type, and size of the proposed structure to be erected and /or the existing structure enlargement or alteration.
    4. The street providing access to the lot and the exact location of the lot in relation to the nearest cross street.
    5. Each plan shall bear statements declaring:
      - a) That no part of the land involved in the application has been previously used to provide required yard space or lot area for another structure.
      - b) Which abutting land was formerly that of the owner of the land involved in the application and, if any, the approximate date of title transfer.
    6. A landscaping plan, pursuant to Article X (Landscaping Requirements).
    7. Any other information which in the judgment of the Zoning Inspector may be necessary to provide for the enforcement of this Resolution.
    8. Each property owner or authorized agent shall be required to attest to the correctness of the statements and data furnished with the application.
    9. Where construction or physical improvement of the land is involved, or where complete and accurate information is not readily available from existing records, all dimensions

shown on filed plans shall be based on an actual survey of the lot by a registered engineer or surveyor.

**B. Site Plan Review**

A site plan review by the Zoning Commission shall be required in any district when any construction, alteration, modification, change of use, or expansion of any residential, institutional, commercial, or industrial principal/accessory structure would result in the required enlargement of a parking area by five (5) or more spaces, in accordance to Article XI (Off-Street Parking and Loading Requirements).

**1. Purpose.**

The purposes of site plan review procedures and requirements are to provide a means and process for the Zoning Commission to review the proposed development of structures and establishment of land uses in a way that considers the following concerns and, where necessary, requires modification of development proposals to eliminate or reduce potential land use conflicts and nuisances. The principle areas of concern are:

- a) Balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without land use conflicts;
- b) The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
- c) The protection of surface or ground-water from pollution and the adequacy of waste disposal methods;
- d) The protection of natural environmental features on the site and in adjacent areas; and
- e) The form of the proposed development as it relates to the preservation of property values in the Township by inclusion of design features that are inviting to the public, help create a sense of place and character, and provide a more human-scale environment.

**2. Time Frame.**

The Zoning Commission shall act on any site plan submitted under this section within forty-five (45) days from the time the Zoning Inspector receives a complete submission of required application materials. Any person submitting a site plan may agree to a longer review period by the Zoning Commission.

**3. Third Party Review.**

The applicant shall be responsible for reasonable expenses incurred by the Township in reviewing final development plans and for any associated site inspections. Such expenses are beyond application fees established by the Township and may include professional service fees incurred in connection with reviewing the submitted plans, such as legal expenses or fees from other professionals such as engineers, landscape architects, planners, or environmental scientists. These fees shall not exceed \$5,000, unless otherwise negotiated between Middleton Township and the developer/owner of such property. Funds for the estimated cost of such reviews or studies shall be placed on deposit with the Township Board of Trustees.

**4. Applications Requiring Variance or Conditional Use Reviews.**

When a particular site plan requires a variance and/or conditional use approval, it must be acted upon by the Board of Zoning Appeals prior to the Zoning Commission issuing site plan approval.

5. Contents - Written Description.

All applications for site plan approval shall contain a written description of the proposed development which includes:

- a) The applicant's name, address, and phone number.
- b) A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.
- c) The name and address of the property owner(s) of record, if the applicant is not the owner.
- d) The address and parcel number of the subject property.
- e) Names and addresses of all contiguous and adjacent property owners.
- f) Name and address of the engineer, architect, and/or surveyor.
- g) Project description, including where applicable: the total number and square footage of structures; the area of each building to be used for a particular use (such as retail operation, office, storage, etc.); the number of units, bedrooms, offices, etc.; useable floor area; maximum number of employees by shift; maximum seating capacity; number of parking spaces existing and required for the intended use; and similar related project-specific information.
- h) A Traffic Impact Study (if required according to Section 5.3.C.).
- i) Evidence that an Ohio Stormwater Pollution Plan (SWP3) has been prepared and properly submitted to the Ohio EPA (Environmental Protection Agency).
- j) A complete set of building drawings and plans as approved by the State Certified Building Department.
- k) Project completion schedule/development phases.
- l) Each plan shall bear statements declaring:
  - (1) That no part of the land involved in the application has been previously used to provide required yard space or lot area for another structure.
  - (2) Which abutting land was formerly that of the owner of the land involved in the application and, if any, the approximate date of title transfer.
- m) Each property owner or authorized agent shall be required to attest to the correctness of the statements and data furnished with the application.

6. Contents - Plans.

All applications for site plan approval shall contain six sets of full size plans and one set of replicable reductions made from the original tracings at a size ranging from 8 ½" x 11" to 11" x 17." The plans for the proposed development shall be based upon a survey of the lot by a registered engineer or surveyor and include:

- a) A vicinity map with a north arrow, scale of 1" = 2000', and date of original submission and last revision.
- b) Any ditches, creeks, or other natural features that may affect development of the property in question. If regulatory flood plains are present on the site, 100-year flood elevations shall be shown on the plan based on information found on Flood Hazard Boundary Maps provided by the Wood County Planning Commission.
- c) Existing and proposed topographic elevations shall be shown with two-foot contour intervals.
- d) Identification of any significant site amenities or unique natural features.
- e) An indication of the gross and net acreage of all parcels in the project.
- f) The zoning classifications of the subject property and all abutting property uses (residential, commercial, etc.), and approximate location of abutting property, buildings, and/or structures.
- g) The location and name of all adjacent thoroughfares indicating both right-of-way and pavement widths measured from the centerline.

- h) The exact location and dimensions of the subject property, existing structure(s), and proposed structure(s). The plan shall indicate building removals and other alteration, if any, of existing property.
- i) The distance from existing and proposed structure(s) to the right-of-way line of all adjacent thoroughfares as well as to the front, side, and rear lot lines.
- j) The locations, size (height), and material of all existing and proposed fencing on the subject property.
- k) The location, the height above grade, the type of illumination, the source lumens, and the luminous area for each existing and proposed exterior source light on the subject property, including estimates for perimeter spill-over lighting, measured in foot candles on a vertical plane along the property line. The lighting model may be provided on a separate photometric computer printout.
- l) The location, dimensions, materials, illuminating characteristics (both internal and/or external) and design for existing or proposed signs on the property.
- m) A landscaping plan, pursuant to Article X (Landscaping Requirements), which includes the dimensional and material characteristics of any existing and/or proposed landscaping, screening, or existing natural land features, trees, forest cover, and water resources, and all proposed changes to such features including size and type of vegetative or building materials to be used. Water resources include ponds, lakes, streams, wetlands, flood plains, drainage ditches and retention areas, rivers, and any other body of water or waterway.
- n) The location of all present and proposed utility systems including sewage or septic systems, water supply system, and storm drainage system including existing and proposed drain lines, culverts, catch basins, head walls, end walls, hydrants, manholes, and drainage swales, detention areas, and storm system design calculations. Also, the site plan shall show the location of water mains and the location of hydrants and valves.
- o) Existing and proposed off-street parking, driveways, and recreational areas with complete dimensions. Curb cuts shall be measured at the curb and throat widths shall be indicated. The drawing shall include the number and size of proposed parking stalls along with the internal circulation pattern of the off-street parking and interior landscaping. If the off-street parking is physically joined with abutting property, then circulation between the properties shall be shown.
- p) The locations and dimensions of existing and/or proposed sidewalks, paths, unloading areas, or bikeways, and illustrating natural and man-made streetscaping including paving materials, vegetative materials, and material and design of street furniture.
- q) Proposed location and dimensions of common spaces and common facilities, such as swimming pools or community buildings.
- r) Location, size, and specifications for screening of all trash receptacles and other solid waste disposal facilities.
- s) Location and specifications for any existing or proposed above- or below-ground storage facilities for any chemicals, salts, flammable materials or hazardous materials, as well as any containment structures or clear zones required by government authorities.
- t) The locations of vehicular stacking spaces for each drive-up window for a proposed drive-up establishment.

7. Site Plan Review Criteria.

All site plans shall be reviewed on the basis of uniform criteria that advance the principles of good site design to provide safe vehicular access and pedestrian movement. Site plans shall also be reviewed on the basis of achieving site designs that will promote a healthy natural and built environment for residents. Specific site plan approval criteria include the following:

- a) The site plan shall show (consistent with the findings of a Traffic Impact Study) that a proper relationship will exist between thoroughfares, service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety on both public and private lands.
- b) All development features, including the principal buildings, open spaces, service roads, driveways and parking areas, shall be so located and related as to minimize the possibility of adverse effects upon adjacent properties.
- c) Building location and placement shall be developed with consideration given to minimizing removal of trees and change of topography.
- d) Maximum visual and auditory privacy for surrounding properties and occupants shall be provided through the design of the relationship among buildings, fences and walls, landscaping, topography, and open space.
- e) Parking area landscaping and screening shall be arranged to minimize large expanses of hard surfaces and to channel traffic flow in a safe manner.
- f) Parking and loading provisions shall meet the requirements of Article XI (Off- Street Parking and Loading Requirements) and on-site traffic circulation shall be designed to provide adequate access for fire and police protection, and minimize interference with the traffic-carrying capacity of adjacent streets.
- g) Refuse storage and pick-up facilities shall be indicated on the site plan and shall be fenced, screened, or landscaped to prevent blowing or scattering of refuse, and to provide an adequate visual barrier from locations both on- and off-site.
- h) All utilities on-site shall be located underground.
- i) Grading and surface drainage provisions shall be designed to minimize nonpoint source pollution and other adverse effects on abutting properties, streams, and public streets, and to minimize the possibility of erosion pursuant to Article IX, Section 25 (Stormwater Management).

8. Action on Site Plans.

The Zoning Commission shall take one of three actions on a site plan as described below:

- a) A site plan may be approved as submitted.
- b) A site plan may be approved with modifications expressly stated in a motion passed by the Zoning Commission.
- c) A site plan may be approved as submitted (or with modifications) in phases.

9. Conformance with Approved Site Plans. All aspects of the development shall conform to the approved site plan. It shall be a violation of this Resolution for any building or premises to be occupied or used, prior to conformance with all applicable requirements of this Resolution and completion of all specifications of this section including required landscaping, drainage, parking area, road, and driveway improvements according to the site plan approved by the Zoning Commission.

10. Amendments to Approved Site Plans. Amendments to approved site plans may be made in the same manner as an original site plan approval except that an applicant need not resubmit information that has already been submitted as part of a previous site plan review process.

C. Access Management Standards.

Access management regulations promote and protect the public health, and safety, convenience, comfort, prosperity, and general welfare by providing development regulations that result in safer access to property and traffic flow.

1. A Traffic Impact Study shall be required and shall be submitted by an applicant as part of a proposed site plan when so required by the Ohio Department of Transportation according to the State Highway Access Control Manual; by the Wood County access management regulations for county and township roads; or when the proposed development will generate or has the potential to generate more than one hundred (100) vehicle trip ends during the peak hour of generation according to the most recent version of the ITE trip generation manual. Such a Traffic Impact Study shall meet all of the requirements established by the Ohio Department of Transportation according to the Access Control Manual. A vehicle trip end is the total of entering and exiting vehicles for the proposed development at full build out and occupancy. Estimates of traffic volumes shall be based on weekday traffic for locations at which weekday employment predominates. Retail development shall include weekend traffic volumes in the estimates.
2. A Traffic Impact Study shall also be required for new phases or changes to an existing development where an existing traffic study is more than two (2) years old and roadway conditions have changed significantly (volumes increasing more than two percent (2%) annually).
3. As part of the site plan review process, a specific driveway location(s) may be approved pursuant to an agreement requiring that such driveway(s) be closed when specific circumstances are met. Such circumstances may include the future construction of a service road on adjacent property, the opportunity for a shared driveway with development of adjacent property, or other site-specific circumstances. This conditional approval may be required even if the driveway(s) conforms to all other requirements of this section.

**Section 6. DEVELOPMENT IN AN IDENTIFIED SPECIAL FLOOD HAZARD AREA (SFHA)**

Before beginning any development in an identified special flood hazard area (SFHA), a "SFHA Development Permit" must be obtained from the local Flood Plain Administrator, i.e., the Wood County Planning Commission. Applications for such permits may be obtained from the Planning Commission or from the Middleton Township Zoning Inspector. Maps delineating the identified SFHAs are available from the local Flood Plain Administrator or may be viewed in the office of the Township Zoning Inspector.

1. As per the Wood County Flood Damage Prevention Regulations, and for the purposes of this section, the term "development" includes, but is not limited to the:
  - A. Construction or alteration of a building or structure, or a substantial improvement to a building or structure;
  - B. Installation or placement of a manufactured home;
  - C. Excavation, mining, filling, grading, paving, or drilling of the land;
  - D. Dredging or alteration of the course of a waterway;
  - E. Alteration of the course of a waterway; or the
  - F. Storage of equipment or materials in buildings or structures, or in the open.
2. The "SFHA Development Permit" issued by the local Flood Plain Administrator must be presented to the Zoning Inspector when application for a zoning certificate is submitted for any development within an identified SFHA.

**Section 7. CONDITIONAL OR TEMPORARY PERMITS**

Any conditional permit or temporary permit issued by the Zoning Inspector shall clearly itemize any and all conditions placed on the permit and/or the time frame of the permit. Prior to issuance of a conditional permit, statements of the applicant relating to the intended action shall be verified through proof of a contract with a contractor, bank financing commitments, or a building permit in place. The permit shall clearly indicate to the holder that violation of the itemized conditions or expiration of the time period of the permit shall place the building or alteration in violation of this Resolution.

**Section 8. EFFECTIVE PERIOD**

A zoning certificate issued pursuant to an application for a new structure or development shall be effective for a one year period, during which period construction shall have proceeded at least to the extent that the new structure or development is substantially complete. A renewal certificate shall be required for the completion of any structure or development beyond a period of one (1) year, all subject to current zoning regulations.

**Section 9. FEE FOR ZONING CERTIFICATES**

1. Each applicant shall pay a fee prior to the issuance of a zoning permit as established from time to time by Resolution adopted by the Middleton Township Board of Trustees.
2. The Zoning Inspector shall forthwith deposit all fees with the Township Fiscal Officer, who shall credit such fees to the credit of the General Revenue Fund of the Township.
3. Every zoning certificate shall require the applicant to certify that the building or the proposed use of a building or land complies with all provisions of law. A record of all zoning certificates shall be kept on file in the Office of the Township Trustees.

**Section 10. ZONING CERTIFICATE FOR NONCONFORMING USES**

A zoning certificate shall be required for all lawful nonconforming uses of land or buildings created by adoption of this Resolution. Application for such certificate for a nonconforming use shall be filed with the Zoning Inspector by the owner or lessee of the building or land occupied by such nonconforming use within one (1) year of the effective date of this Resolution. It shall be the duty of the Zoning Inspector to issue a certificate for a lawful nonconforming use, but failure to apply for such certificate for a nonconforming use or refusal of the Zoning Inspector to issue a certificate for such nonconforming use shall be evidence that said nonconforming use was either illegal or did not lawfully exist at the effective date of this Resolution.

**Section 11. VIOLATION AND PENALTIES**

It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building, structure or land in violation of any regulation in or any provisions of this Resolution or any amendment or supplement thereto adopted by the Board of Trustees of the Township. Any person, firm or corporation violating any regulation in or any provision of this Resolution or any amendment or supplement thereto shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than Five Hundred Dollars (\$500). Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance or uses continues may be deemed a separate offense as per ORC 519.99.



**Section 12. VIOLATIONS - REMEDIES**

1. In case any building or structure is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land is or is proposed to be used in violation of this Resolution or any amendment or supplement thereto, the Board of Township Trustees, the Zoning Inspector, the County Prosecutor or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.
2. Inspections of private property to ascertain suspected violations of zoning regulations require a search warrant where the owner or occupant of the property does not give consent, unless there is an emergency, the property is open to the public, or the industry conducted on the property has a history of government oversight such that no reasonable expectation of privacy exists. Where consent is not provided for inspection, the Zoning Inspector shall document or photograph violations from the public right-of-way. For purposes of proof of identification as an official of the Township, the Zoning Inspector shall obtain an identification from the Wood County Sheriff's Department and cause it to be carried at all times while on official duty.